

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HARRY SAMUEL,	)	
	)	
Plaintiff,	)	
	)	
	)	C.A. No. 05-037-SLR
v.	)	
	)	
THOMAS CARROLL, (WARDEN), LT.	)	
PORTER, COUNSELOR KRAMER, and	)	
the I.B.C.C. (CLASSIFICATION	)	
COMMITTEE), and DENTAL SERVICE,	)	
	)	
Defendants.	)	

**STATE DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME  
OUT OF TIME**

State defendants, Warden Thomas Carroll, Lieutenant Porter, Correctional Officer Rob Young, and Counselor Kramer by and through undersigned counsel, hereby move the Court, pursuant to Fed. R. Civ. P. 6(b)(2), to grant an enlargement of time out of time within which to file responses to Plaintiff's discovery requests in the above captioned case. In support of its Motion, State defendants submit the following:

1. Harry Samuel ("plaintiff") is an inmate incarcerated and under the supervision of the Delaware Department of Correction ("DOC") housed at the Delaware Correctional Center ("DCC") Smyrna, Delaware.
2. On or about January 25, 2005, plaintiff commenced this action by filing a Complaint pursuant to 42 U.S.C. §1983 with leave to proceed *in forma pauperis* against several State Defendants as well as medical personnel alleging violations of his Eighth and Fourteenth Amendment Constitutional rights. (D.I.#2). State defendants named in the Complaint are: DCC's

Warden Thomas Carroll, Lieutenant Porter, Correctional Officer Rob Young, and Counselor Kramer.

3. On or about September 23, 2005, by Memorandum Order, plaintiff's Fourteenth Amendment classification claim was dismissed as well as an Eighth Amendment condition of confinement claim. (D.I.#23). Plaintiff's Eighth Amendment claim regarding dental care treatment however, was found not to be frivolous under 28 U.S.C. §1915A(b).

4. On or about March 8, 2006, State defendants filed a Motion to Dismiss with an accompanying Memorandum of Points and Authorities in Support of their Motion to Dismiss. (D.I.##53, 54). On or about March 15, 2006, plaintiff filed an Answering Brief. (D.I.#58). On or about March 22, 2006, State defendants filed a Reply Brief. (D.I.#62).

5. On or about August 25, 2006, plaintiff filed Discovery Requests for Production of Documents and Interrogatories. (D.I.#84).

6. Due to the press of other litigation, counsel was unable to meet the September 25, 2006 deadline for filing discovery responses. At the moment, counsel is still obtaining the necessary information from her clients in order to properly prepare responses to plaintiff's discovery requests.

7. As a result, counsel, on behalf of her clients, respectfully requests that the Court grant an extension of thirty (30) days from the September 25, 2006 deadline until October 23, 2006, to formulate and prepare the appropriate responsive pleadings.

8. This is State defendants' first request for an extension of time for filing responses to discovery.

A form of order is attached to this motion that will grant the State defendants a thirty (30) day extension from the September 25, 2006 date until October 23, 2006, to file responses to plaintiff's discovery.

STATE OF DELAWARE  
DEPARTMENT OF JUSTICE

/s/ Ophelia M. Waters  
Ophelia M. Waters, I.D. 3879  
Deputy Attorney General  
Carvel State Building  
820 N. French Street, 6th Floor  
Wilmington, DE 19801  
(302) 577-8400

DATED: October 3, 2006

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

HARRY SAMUEL,	)	
	)	
Plaintiff,	)	
	)	
vi.	)	C.A. No. 05-037-SLR
	)	
THOMAS CARROLL, (WARDEN), LT.	)	
PORTER, COUNSELOR KRAMER, and	)	
the I.B.C.C. (CLASSIFICATION	)	
COMMITTEE), and DENTAL SERVICE,	)	
	)	
Defendants.	)	

**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2006,

**WHEREAS**, State defendants having requested an enlargement of time in which to file discovery responses; and

**WHEREAS**, there being good cause shown for the granting of such motion;

IT IS HEREBY ORDERED, that State defendants' Motion for Enlargement of Time be granted and said State defendants shall file responses to plaintiff's discovery requests on or before October 23, 2006.

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Judge Sue L. Robinson

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HARRY SAMUEL,	)	
	)	
Plaintiff,	)	
	)	
vii.	)	C.A. No. 05-037-SLR
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THOMAS CARROLL, (WARDEN), LT.	)	
PORTER, COUNSELOR KRAMER, and	)	
the I.B.C.C. (CLASSIFICATION	)	
COMMITTEE), and DENTAL SERVICE,	)	
	)	
Defendants.	)	

**7.1.1 CERTIFICATION OF COUNSEL**

The counsel for the State defendants, Deputy Attorney General Ophelia M. Waters, files this certification in compliance with Rule 7.1.1 of the Local Rules of Civil Procedure and certifies that:

1. The plaintiff in this action is an unrepresented prisoner incarcerated in the Delaware Correctional Center, Smyrna, Delaware.
2. Since the plaintiff is not able to be reached by telephone and other contact is impractical, counsel for the State defendants has spent no time in attempting to reach an agreement on the subject of the motion for enlargement of time to file a response to plaintiff's discovery requests.
3. She assumes that the motion is opposed.

DEPARTMENT OF JUSTICE  
STATE OF DELAWARE

by: /s/ Ophelia M. Waters  
Ophelia M. Waters, I.D. 3879  
Deputy Attorney General  
Department of Justice  
State of Delaware  
820 N. French St.  
Wilmington, DE 19801

DATED: October 3, 2006

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FOR THE DISTRICT OF DELAWARE

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Plaintiff,	)	
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COMMITTEE), and DENTAL SERVICE,	)	
	)	
Defendants.	)	

**16.5 CERTIFICATION**

In compliance with Local Rule of Civil Procedure 16.5, counsel for the State defendants making the request for an extension of time files this certification and states:

I certify that I have sent a copy of the request for an extension of time to file a response to plaintiff's discovery requests to the State defendants.

DEPARTMENT OF JUSTICE  
STATE OF DELAWARE

/s/ Ophelia M. Waters  
Ophelia M. Waters, I.D. # 3879  
Department of Justice  
Carvel State Bldg., 6<sup>th</sup> Fl.,  
820 N. French St.,  
Wilmington, DE 19801  
(302)577-8400

Dated: October 3, 2006

***CERTIFICATE OF SERVICE***

I hereby certify that on October 3, 2006, I electronically filed *State Defendants' Motion for Enlargement of Time Out of Time Pursuant to Fed. R. Civ. P. 6(b)(2)* with the Clerk of Court using CM/ECF. I hereby certify that on October 3, 2006, I have mailed by United States Postal Service, the document to the following non-registered participant: Harry Samuel; SBI #201360; Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
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